



# OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

L E A D I N G I N T E L L I G E N C E I N T E G R A T I O N

## FACT SHEET

### **Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act (FISA) 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> Joint Assessments**

This Fact Sheet provides an overview of the *Semiannual Assessments of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act*. These are commonly referred to as “Joint Assessments,” and are submitted by the Attorney General and the Director of National Intelligence (DNI). As of January 2017, fifteen joint assessments have been submitted. This Fact Sheet also highlights information from the 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> Joint Assessments.

#### **Joint Assessment Basics:**

- *Why is the Joint Assessment required?* The FISA Amendments Act of 2008 (50 U.S.C. § 1881(i)(1)) requires the Attorney General and the DNI to assess compliance with certain procedures and guidelines issued pursuant to FISA Section 702.
- *What period is covered by a Joint Assessment?* Each Joint Assessment covers a six-month period: December 1 – May 31 or June 1 – November 30.
- *Who receives it?* Each Joint Assessment is submitted to the Foreign Intelligence Surveillance Court (FISC) and relevant congressional committees.
- *What is being assessed?* The Attorney General and the DNI must jointly assess the government’s compliance with FISC-approved “targeting procedures” and “minimization procedures.”
- *What are targeting procedures and minimization procedures?* Section 702 allows for the targeting of (i) non-United States persons (ii) reasonably believed to be located abroad (iii) to acquire foreign intelligence information. To ensure that all three requirements are appropriately met, Section 702 requires targeting procedures. Targeting is effectuated by tasking communications facilities (such as telephone numbers and electronic communications accounts) to U.S. electronic communications service providers. Section 702 also requires minimization procedures to minimize and protect any non-public information of United States persons that may be incidentally collected when appropriately targeting non-United States persons abroad for foreign intelligence information.
- *What compliance and oversight efforts underlie the Joint Assessment?* Agencies employ extensive compliance measure to implement Section 702 in accordance with procedural, statutory, and constitutional requirements. A joint oversight team consisting of experts from the Department of Justice (DOJ) and the Office of the Director of National Intelligence (ODNI) oversee these measures. Each incident of non-compliance (i.e. compliance incident) is documented, reviewed by the joint oversight team, remediated, and reported to the FISC and relevant congressional committees. The Joint Assessment summarizes compliance trends and assesses compliance (including calculating the compliance incident rate for the relevant reporting period) and may include recommendations to help prevent compliance incidents or increase transparency.

#### **Highlights from the recently released 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> Joint Assessments:**

- *No intentional violations.* Consistent with previous Joint Assessments, no instances of intentional circumvention or violation of those procedures or guidelines were found.
- *Continued focused efforts to implement Section 702 in a compliant manner.* The Joint Assessments report that the agencies continued to implement the procedures in a manner that reflected a focused and concerted effort by Intelligence Community (IC) personnel to comply with the requirements of Section 702.
- *Compliance incident rate remains low.* The compliance incident rate remained low, which is consistent with the compliance incident rate reported for other reporting periods. The majority of incidents were caused by misunderstandings of the procedures, failure to conduct the required checks, technical issues and inadvertent human errors.

- *What government agencies are involved with implementing Section 702?* The National Security Agency (NSA), the Federal Bureau of Investigation (FBI), the Central Intelligence Agency (CIA) and the National Counterterrorism Center (NCTC) implement Section 702. Each Joint Assessment discusses how these agencies implement the authority.
- *Why is the Joint Assessment classified?* The Joint Assessment is classified to allow the Attorney General and DNI to provide the congressional oversight committees a complete assessment of the Section 702 program while at the same time protecting sources and methods. The assessments are carefully redacted for public release in the interest of transparency.
- *What is the format of the Joint Assessment?* The Joint Assessment generally contains an executive summary, five sections, and an appendix. Sections 1 and 5 provide an introduction and conclusion. Section 2 details internal compliance efforts by the agencies that implement Section 702, interagency oversight, training efforts and efforts to improve the implementation of Section of 702. Section 3 compiles and presents data acquired from compliance reviews of the targeting procedures and minimization procedures. Section 4 describes compliance trends. The Joint Assessment describes the extensive measures the Government undertakes to ensure compliance with court-approved targeting and minimization procedures; to accurately identify, record and correct errors; to take responsive actions to remove any erroneously obtained data; and to minimize the chances that mistakes will re-occur.
- *What are the types of compliance incidents discussed?* Generally, the Joint Assessment groups incidents into six categories. Categories 1-4 (tasking incidents, detasking incidents, notification delays and documentation errors) discuss non-compliance with targeting procedures. Category 5 discusses incidents of non-compliance with minimization procedures, such as erroneous queries of 702 information using U.S. person identifiers. Finally, category 6 is a catch-all category for incidents that do not fall into one of the other five categories. The actual number of compliance incidents is classified; however, the percentage breakdown of those incidents is unclassified and reported in the Joint Assessment. Additionally, because Section 702 collection occurs with the compelled assistance of U.S. electronic communications service providers who receive a Section 702(h) directive, the Joint Assessment includes a review of any compliance incidents attributable to such service providers.